

LEE METCALF WILDERNESS AND MANAGEMENT ACT OF 1983

MARCH 3 (legislative day, FEBRUARY 23), 1983.—Ordered to be printed

Mr. McCLURE, from the Committee on Energy and Natural Resources,
submitted the following

REPORT

[To accompany S. 96]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 96) to establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 7, between lines 13 and 14 add a new subsection (f) as follows:

(f) To provide for more efficient administration of lands designated by this Act as Wilderness:

(1) the exterior boundaries of the Beaverhead and Gallatin National Forests in the State of Montana are hereby modified to exclude all lands within the Bear Trap Canyon portion of the Lee Metcalf Wilderness and the said National Forest boundaries shall hereafter be the same as the wilderness boundaries depicted on the maps referred to in section 2(a) of this Act. All National Forest lands within the Bear Trap Canyon portion of the Lee Metcalf wilderness are transferred to the administration of the Secretary of the Interior to be managed as public lands in accordance with this Act, the Wilderness Act and the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2743);

(2) the public lands in Section 12, Township 10 South, Range 1 East, Montana Principal Meridian, are hereby transferred to the Secretary of Agriculture to be hereafter administered in accordance with the laws, rules and regulations applicable to the National Forest System;

(3) for purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended), the boundaries of the Beaverhead and Gallatin National Forests, as modified by this subsection, shall be treated as if they were the boundaries of those forests on January 1, 1965;

(4) nothing in this Act shall affect valid existing rights or interests in existing land use authorizations, except that any such right or authorization shall hereafter be administered by the agency having jurisdiction of the land after the enactment of this Act, in accordance with this Act and applicable law. Reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction.

PURPOSE OF THE MEASURE

S. 96, as reported, would establish the Lee Metcalf Wilderness and Management Area in the State of Montana, release other National Forest and Bureau of Land Management lands for uses other than wilderness, effect a major land exchange between the United States and Burlington Northern in the Taylor-Hilgard area, and adjust the boundaries of certain existing wilderness areas in Montana.

BACKGROUND AND NEED

Lee Metcalf was a United States Senator from Montana from 1961 until he died in January, 1978. From 1953 until 1960 he served in the House of Representatives. Senator Metcalf authored the Montana Wilderness Study Act that included the lands designated as wilderness by S. 96.

On January 25, 1978, the Committee on Energy and Natural Resources adopted the following resolution:

Whereas, Lee Metcalf served with great distinction as a United States Senator from Montana from 1961 to 1978; and

Whereas, Senator Metcalf was for 13 years a member of the Committee on Energy and Natural Resources and its predecessor, the Committee on Interior and Insular Affairs; and

Whereas, Senator Metcalf was an outspoken advocate of legislation to encourage responsible management and wise use of the Nation's public lands; and

Whereas, Senator Metcalf was instrumental in the efforts of this committee to preserve the Nation's wilderness areas and other natural resources; and

Whereas, Senator Metcalf led the long fight to protect the environment from the impact of surface mining; and

Whereas, Senator Metcalf's dedication to the work of this Committee and his many legislative achievements will be long remembered: Now, therefore, be it

Resolved, That the members of the Committee on Energy and Natural Resources record with profound sorrow the

death of Lee Metcalf on January 12, 1978, and convey their deepest sympathies to his family and friends in Montana and throughout the country.

In 1977, Congress passed the Montana Wilderness Study Act. One of the areas included in that legislation was the Taylor-Hilgard area, comprising 289,859 acres. Nearly all the proposed Lee Metcalf Wilderness and Management Area's acreage is within the Taylor-Hilgard Study boundary. Public Law 95-150 directs that the areas to be studied shall, "... until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential inclusion in the National Wilderness Preservation System."

S. 96 would designate certain lands in the Taylor-Hilgard area as wilderness, direct the management of certain other lands in the area, and release still other lands from the management required by Public Law 95-150. Legislation is needed to insure that the highest uses of lands studied under Public Law 95-150 are actually achieved, since Congress must act for the study and interim management phases to be terminated.

More specifically, S. 96 as reported, would designate approximately 244,000 acres of Forest Service and BLM land as wilderness and direct the management of another 35,000 acres of Forest Service land for wildlife habitat and recreation values. The bill effects an exchange of lands in the area between the Forest Service and Burlington Northern, Inc., who share a checkerboard land ownership pattern in the Taylor-Hilgard area; the exchange would consolidate holdings of both parties. In addition, S. 96 directs the Secretary of the Interior to remove a fishing access road from the UL Bend Wilderness, Montana; releases the Forest Service RARE II area known as the Tongue River Breaks for uses other than wilderness; directs the Forest Service to adjust a portion of the boundary of the existing Absaroka-Beartooth Wilderness Area, Montana, to exclude approximately 50 acres of private land in the northern portion of the area and releases for uses other than wilderness the Mt. Henry Wilderness Study Area, Montana, also mandated for study by Public Law 95-150.

The initial Forest Service report on Taylor-Hilgard as required by Public Law 95-150 recommended some 155,269 acres be added to the National Wilderness Preservation System. The additional acreages proposed for the wilderness in S. 96 are largely in the existing Spanish Peaks Primitive Area nearby, the area within the Taylor-Hilgard Study boundary and the Bear Trap Canyon Instant Study Area, studied for wilderness suitability by the Bureau of Land Management.

The special management area is designed to accommodate the two most important uses of the lands within its boundary: wildlife and recreation. Elk and grizzly bear populations depend on the lands generally surrounding Monument Mountain. Outdoor recreation, most importantly winter snowmobiling, is established along the Big Sky Snowmobile Trail and associated play areas, and this recreation opportunity is essential to the economy of this part of Montana, most specifically the town of West Yellowstone.

The exchange of private and public lands is necessary to consolidate public ownership in the Lee Metcalf Wilderness. Burlington North-

ern, Inc. will deed over some 24,007 acres to the Forest Service, and 11,810 acres of Federal land will be transferred to Burlington Northern, Inc.

LEGISLATIVE HISTORY

S. 96 was introduced by Senator Melcher on January 26, 1983. S. 96 is similar to S. 2110 as ordered reported by the Committee in the 97th Congress. The Public Lands and Reserved Water Subcommittee received testimony on S. 96 on February 17, 1983. The Administration supports the enactment of S. 96 if amended.

At a business session on February 23, 1983, the Committee on Energy and Natural Resources ordered S. 96 favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on February 23, 1983, by a unanimous vote of a quorum present recommends the Senate pass S. 96 as described herein.

The rollcall vote on reporting the measure was 18 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield ¹	
Mr. Weicker ¹	
Mr. Domenici ¹	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Chafee	
Mr. Johnston ¹	
Mr. Jackson	
Mr. Bumpers	
Mr. Ford ¹	
Mr. Matsunaga ¹	
Mr. Melcher	
Mr. Tsongas	
Mr. Bradley	

¹ Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title for the Act.

Section 2(a) designated certain lands in the Beaverhead and Galatin National Forests and certain lands administered by the BLM as a unit of the National Wilderness Preservation System and references these lands by a map. The area is designated as the Lee Metcalf Wilderness.

Section 2(b) provides for administration of the areas designated as wilderness by the Act.

Section 2(c)(1) designated certain lands within the Gallatin National Forest as the Lee Metcalf Management Area.

Section 2(c)(2) describes the acreage of and references the Lee Metcalf Management Area by a map. The Secretary of Agriculture is to administer the area to protect and maintain the present wilderness characteristics. Motorized vehicular use (snowmobiles) and other vehicles (bicycles, horse drawn wagons) shall be allowed in the area only where such use is compatible with the protection and propagation of wildlife in the area.

Section 3(a)(1) makes Congressional findings that certain lands listed in Section 3(b) of this Act have been adequately reviewed and examined for wilderness pursuant to Public Law 95-150 and as roadless areas in the National Forest System as described.

Section 3(a)(2). The RARE II process during 1977-79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act (NFMA) of 1976. That process requires that the land plans be revised periodically to provide for a variety of uses including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that such plans shall provide for multiple-use and sustained yield of products and services including coordination of outdoor recreation, range timber, watershed, wildlife and fish, and wilderness must be considered during the planning process for those lands which may be suited for the wilderness. The Forest Service is presently developing the initial, or "first-generation," plan for each national forest. These are the so-called "section 6" plans and are to be completed by September 30, 1985.

The language in S. 96 provides that further consideration of wilderness during development of the initial plans for the national forest system roadless area in Section 3(b) not designated as wilderness upon enactment of S. 96 is unnecessary in view of the study and review which has recently taken place by both the Forest Service and the Congress.

Beyond the initial plan, lies the issue of when the Forest Service should again review wilderness suitability of particular roadless areas. As noted, the initial plans are to be completed by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised.

S. 96, as reported, provides that the Department of Agriculture shall not be required to review "the wilderness option" until after the first planning cycle.

Section 3(a)(3) provides that the lands designated for non-wilderness uses in Section 3(b) need not be managed for the purposes of protecting their suitability for wilderness designation pending revision of the initial plans.

The Forest Service already has statutory authority to manage roadless areas for multiple use, non-wilderness purposes.

Section 3(b) identifies certain National Forest System lands in Montana that are not designed as wilderness and subject to the release provision of Section 3(a) of this Act.

Section 3(c)(1) provides that certain BLM lands described in Section 3(c)(2) have been adequately reviewed and examined for wilderness pursuant to Sec. 603 of the Federal Land Policy and Management

Act (P.L. 94-579). This section should not be taken as a statement or precedent by this Committee on the need for legislative release regarding BLM lands. The Committee action is not to be construed to indicate either a position or the existence of a legal question on this issue generally. The release of any BLM lands in this bill is not to be taken as a pre-statement of the need for release in BLM study areas generally. The Committee action is confined to this particular situation.

Section 3(c)(2) identifies certain public lands described as the Tongue River Breaks contiguity, the Madison Tack-ons, and the Bear Trap Canyon study area administered by BLM in Montana that are not designated as wilderness and subject to the provisions of Section 3(c)(1).

Section 3(d) revises the boundary of the Absaroka Beartooth Wilderness to delete a Forest Service parking lot and 0.3 miles of road on the northern edge of the wilderness. Section 3(e) removes approximately 3 miles of road from the U. L. Bend Wildlife Refuge Wilderness in Montana.

Section 3(f) transfers certain lands in the Bear Trap Canyon portion of the proposed Lee Metcalf Wilderness from the Secretary of Agriculture to the Secretary of the Interior. The boundaries of the Beaverhead and Gallatin National Forests are modified to reflect this transfer. Certain public lands in the proposed wilderness are transferred from the Secretary of the Interior to the Secretary of Agriculture and are made a part of the National Forest System.

The section provides that the boundaries of the Beaverhead and Gallatin National Forests as revised shall be considered as the boundaries for land acquisition purposes as of January 1, 1965 to qualify for the authority given in Section 7 of the Land and Water Conservation Fund Act.

The section also recognizes valid existing rights existing on the lands to be transferred and provides for continuation of those rights and interests where appropriate.

Section 4(a) and 4(b) authorize and direct the Secretary to accept certain lands from the Burlington Northern Railroad Company and to convey certain other lands to the Burlington Northern Railroad Company to consolidate lands in federal ownership which would be included in the proposed Lee Metcalf Wilderness. A Memorandum of Understanding between the Forest Service and Burlington Northern Railroad Company which formed the basis for Section 4(a) and 4(b) is as follows:

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this 10th day of November, 1981, by and between the Forest Service, United States Department of Agriculture, hereinafter referred to as FS, and Burlington Northern Railroad Company, a Delaware corporation, hereinafter referred to as BN, for the purpose of documenting joint understandings in relation to a proposed wilderness and legislated exchange of lands within the Gallatin and Beaverhead National Forests, Montana.

WITNESSETH:

WHEREAS, there is a proposal that the Congress of the United States establish a wilderness within the Taylor-Hilgard area,

WHEREAS, there are intermingled National Forest and BN ownerships within the Taylor-Hilgard area,

WHEREAS, in the event a wilderness is created, it is the intent to consolidate Federal ownership within the wilderness.

NOW, THEREFORE, BN and the FS hereto agree as follows:

1. Within 45 days following passage of Federal legislation which establishes the wilderness and consummates the associated land exchange, BN will execute and transmit to the FS a warranty deed, conveying to the United States those lands described in Exhibit A, attached hereto and made a part hereof, said conveyance to be subject only to such reservations and encumbrances as are of record and acceptable to the Secretary of Agriculture.
2. Within 45 days following receipt of such warranty deed from BN, the United States shall issue patent to those lands described in Exhibit B, attached hereto and made a part hereof, said patent to convey ownership of said lands to BN subject only to (1) a reservation for ditches and canals as provided for in the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945), and (2) such reservations and encumbrances as are of record.
3. BN accepts the responsibility accruing from this exchange to provide and manage three (3) public recreational accesses, including trail head facilities as needed, in the Jack Creek drainage over routes approximately as illustrated on Exhibit C, attached hereto and made a part hereof, to utilize National Forest lands.

The recreational accesses will originate from the Jack Creek Road and will connect to the existing FS trails at points A, B, and C, as shown on Exhibit C.

4. It is further understood that the FS will, at the time patent to the lands described in Exhibit B is conveyed to BN, relinquish the interest of the United States in the Hammond Creek Road across Section 6, T. 6 S., R. 2 E., and Section 32, T. 5 S., R. 2 E.
5. It is further understood that this agreement will terminate if the required wilderness and related land exchange legislation is not passed by Congress by December 31, 1981.

IN WITNESS THEREOF, the parties hereto cause this agreement to be properly executed by their authorized representatives.



Regional Forester
Forest Service



Vice President, Timber and Land
Burlington Northern Railroad
Company

EXHIBIT AT. 6 S., R. 1 E., P.M.M.

Sec. 13, all.

T. 6 S., R. 2 E., P.M.M.

Sec. 1, Lots 13, 14, N $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
 Sec. 19, all fractional;
 Sec. 27, all;
 Sec. 29, all;
 Sec. 31, all fractional;
 Sec. 33, all.

T. 7 S., R. 1 E., P.M.M.

Sec. 1, all fractional;
 Sec. 3, Lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 11, N $\frac{1}{2}$ NE $\frac{1}{4}$.

T. 7 S., R. 2 E., P.M.M.

Sec. 5, all fractional;
 Sec. 15, all;
 Sec. 17, all;
 Sec. 21, all;
 Sec. 25, all;
 Sec. 27, N $\frac{1}{2}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$.

T. 7 S., R. 3 E., P.M.M.

Sec. 31, all fractional.

T. 8 S., R. 1 E., P.M.M.

Sec. 25, N $\frac{1}{2}$.

T. 8 S., R. 2 E., P.M.M.

Sec. 1, all fractional;
 Sec. 3, all fractional;
 Sec. 9, All;
 Sec. 11, all;
 Sec. 13, all;
 Sec. 15, all;

T. 8 S., R. 2 E., P.M.M. (Continued)

Sec. 17, all;
 Sec. 19, all fractional;
 Sec. 21, all;
 Sec. 23, all;
 Sec. 25, all;
 Sec. 27, all;
 Sec. 33, E $\frac{1}{2}$;
 Sec. 35, all.

T. 8 S., R. 3 E., P.M.M.

Sec. 5, all fractional;
 Sec. 7, all fractional;
 Sec. 17, all;
 Sec. 19, all fractional;
 Sec. 21, W $\frac{1}{2}$;
 Sec. 29, all;
 Sec. 31, Lots 1 and 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 9 S., R. 2 E., P.M.M.

Sec. 1, all fractional;
 Sec. 11, all.
 Containing 24,007.23 acres, more or less, all in Madison and Gallatin Counties
 State of Montana.

EXHIBIT B

T. 5 S., R. 1 E., P.M.M.

Sec. 24, S $\frac{1}{2}$;
Sec. 26, all;
Sec. 34, Lots 1, 2, 3, 4, SE $\frac{1}{4}$;
Sec. 36, all, less HES 187 and 190.

T. 5 S., R. 2 E., P.M.M.

Sec. 30, all fractional;
Sec. 32, all;
Sec. 34, S $\frac{1}{2}$.

T. 6 S., R. 1 E., P.M.M.

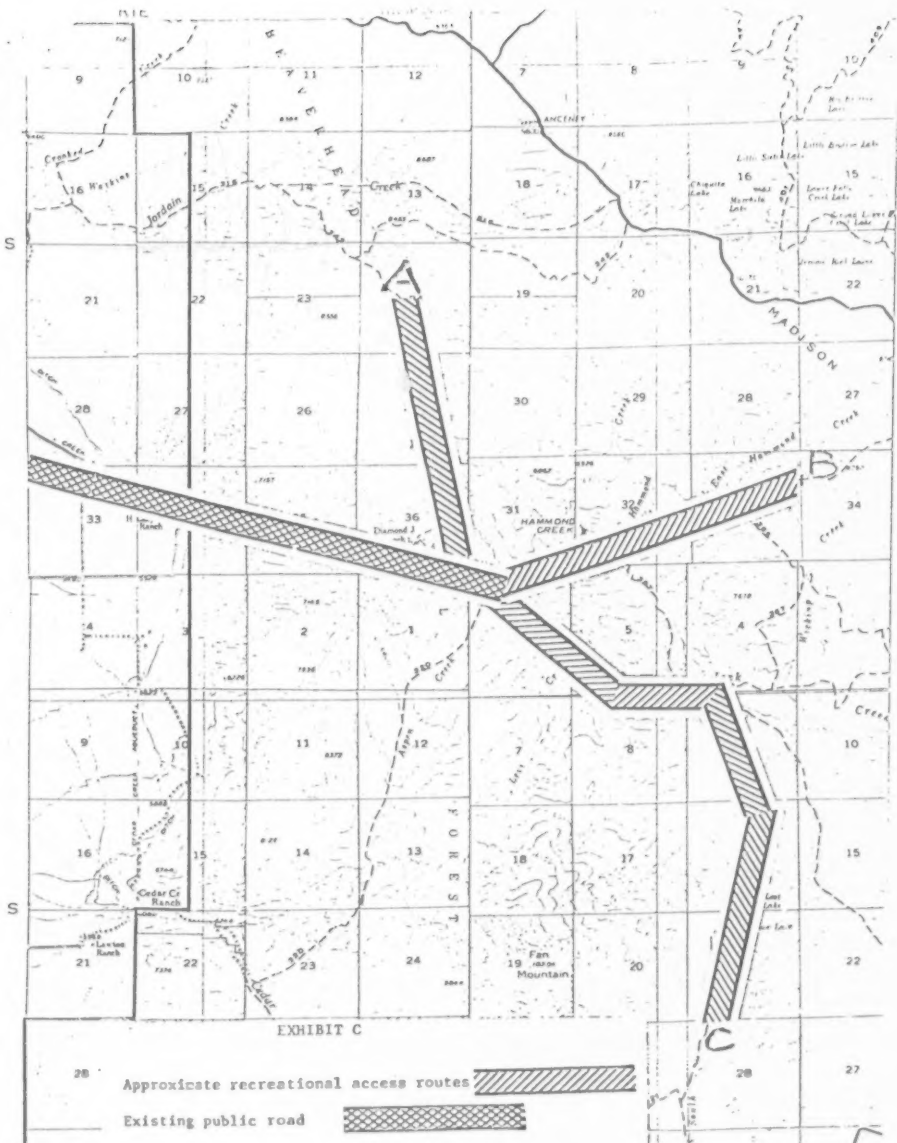
Sec. 2, all fractional;
Sec. 12, all.

T. 6 S., R. 2 E., P.M.M.

Sec. 2, all fractional;
Sec. 4, all fractional;
Sec. 6, all fractional;
Sec. 8, all;
Sec. 10, all;
Sec. 12, all fractional;
Sec. 14, all;
Sec. 16, all;
Sec. 22, all;
Sec. 24, all.

T. 6 S., R. 3 E., P.M.M.

Sec. 18, all fractional.
Containing 11,810.47 acres, more or less, all in Madison County,
State of Montana.



BEST AVAILABLE COPY

Section 4(c) provides a 90 day deadline after enactment of this Act to complete the necessary transactions to convey the titles of lands listed in sections 4(a) and 4(b).

Section 4(d) revokes seven withdrawals on lands to be conveyed by the United States as described in Section 4(b).

Section 5 provides for the filing of maps and legal description of the proposed areas."

Section 6 provides an authorization for appropriation.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., February 23, 1983.

Hon. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 96, the Lee Metcalf Wilderness and Management Act of 1983, as ordered reported by the Senate Committee on Energy and Natural Resources, February 23, 1983.

This bill designates 279,500 acres of land in Montana as the Lee Metcalf Wilderness and Management Areas. Based on information from the National Forest Service, it is estimated that additional costs resulting from surveying, planning and related activities associated with the designations will be approximately \$250,000 over the five fiscal years beginning with 1983.

The bill also contains provisions for the release of certain lands from wilderness management and a land exchange between the National Forest Service and a private party. A small amount of savings to the federal government is expected to be realized as a result of these provisions.

Enactment of this bill would not affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 96.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

S. 96 would establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 96.

EXECUTIVE COMMUNICATIONS *

The pertinent legislative report on S. 96 has been requested by the Committee. When the legislative report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill S. 96, as reported.

